

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed June 16, 2009, and Applicant's supplemental amendments filed July 27, 2009 and September 24, 2009, all of which have been entered. Applicant has amended claim 41. Claims 38-40 have been cancelled. Currently, claims 18, 20-37 and 41-43 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 20080228, 20081020, and 20090312.
3. The objection to the abstract for being longer than one page is withdrawn in view of Applicant's newly submitted abstract.
4. The rejection of claims 38-40 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kerobo et al, U.S. Patent No. 6,133,218, is withdrawn in view of applicant's amendments and remarks. Specifically, claims 38-40 have been cancelled.
5. The provisional rejection of claims 18, 20-37 and 41-43 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17

and 20 of copending Application No. 10/556,793 is withdrawn in view of applicant's timely filed terminal disclaimer.

6. The provisional rejection of claims 18, 20-37 and 41-43 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-34 of copending Application No. 10/588,719 is withdrawn in view of applicant's timely filed terminal disclaimer.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 41-43 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kerobo et al, U.S. Patent No. 6,133,218.

Kerobo et al, U.S. Patent No. 6,133,218, discloses a composition comprising a blend of two nonionic surfactants (see abstract and col. 2, lines 17-20), wherein suitable nonionic surfactants include hetric/block polyoxyalkylene polymers of formula II (see col. 3, lines 10-30). It is noted by the examiner that the hetric/block polyoxyalkylene polymer of formula II disclosed by Kerobo et al reads on instant claims 41-43 when Y is an alkyl group containing 6-18 carbon atoms, A is butylene oxide, o is 26, m is 110, and n is zero (see col. 3, lines 10-30). Therefore, instant claims 41-43 are anticipated by Kerobo et al, U.S. Patent No. 6,133,218.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

Response to Arguments

10. Applicant's arguments with respect to claims 18, 20-37 and 41-43 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, the examiner notes that claim 41 originally stated that the variable m was a value of 50-250 (see claims dated 2/17/09). It is further noted by the examiner that applicant's

supplemental amendment dated 7/27/09 changed the value of m from 50-250 to 10-300, which amendment necessitated the new grounds of rejection.

Allowable Subject Matter

11. Claims 18 and 20-37 are allowed.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P Mruk/
Primary Examiner, Art Unit 1796

Brian P Mruk
September 30, 2009

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Primary Examiner
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